

ZONING BOARD OF APPEALS

JANUARY 20, 2015 MEETING MINUTES

Present: Chairman Ron Nolland, Scott DeMane, Connie Fisher,
Kathleen Insley, Kathy Latinville (Alt.)
Joseph McMahon, Building Inspector

Also Present:

Appeal #2018 Mary Maher
Appeal #2021 Terry Schmaltz
James Moser, Moser Engineering
Appeal #2022 Jo-Ellen Miano
Appeal #2023 Michael Racine
Appeal #2024 Michael Racine

Mr. Nolland called the meeting to order at 7:00 PM. The following items were on tonight's agenda.

APPEAL	APPLICANT	REQUEST
2018	MARY MAHER 38 PROSPECT AVENUE	CLASS B VARIANCE REQUEST TO MAINTAIN PORCH AND STAIRS IN THE FRONT YARD SETBACK
2021	VALCOUR BREWING CO. OHIO AVENUE	SPECIAL USE PERMIT REQUEST TO OPERATE MIXED USE BLDG.
2022	UNITARIAN UNIVERSALIST FELLOWSHIP 64 ELM STREET	CLASS B VARIANCE REQUEST TO INSTALL AN SIGN IN A RESIDENTIAL DISTRICT
2023	MICHAEL RACINE 293 MARGARET STREET	CLASS B VARIANCE REQUEST TO PROVIDE LESS PARKING THAN REQUIRED IN A B1 DISTRICT
2024	MICHAEL RACINE 293 MARGARET STREET	SPECIAL USE PERMIT REQUEST TO CONVERT COMMERCIAL BUILDING INTO ONE OR TWO BEDROOM APARTMENT

Mr. Nolland said they will hear them in the above order. There is a full board tonight however, at the February 17, 2015 meeting there will only be 3 board members available. It takes 3 positive votes. Valcour Brewing will not be acted on tonight.

The **first** item heard was Appeal #2018, Mary Maher for a Class B Variance for request to maintain porch and stairs in front yard setback.

[Meter 1:26]

Mary Maher was present to represent herself for this appeal.

Mr. Nolland explained Ms. Maher came to this board before asking for a larger deck, which was postponed. She then built a deck that was larger than allowed. Ms. Maher then explained she took full responsibility however her father had come down and asked if it was OK to turn the stairs to go over the cement stairs and to go down the sidewalk. In order to put the elephant foot in? and not hit the cement, they went over, which she was not aware of at the time. She just wanted to cover the stairs and turn it. This goes over the existing sidewalk.

Discussions on the dimension of the drawings. [Meter 3:14]. Mr. Nolland said for all intense purposes, although it says 7'6" x 9'6", the board will say it's 8' x 10'. The applicant is allowed a deck 6' x 8'. Mr. Nolland said the 10' isn't so much of an issue as it is the 8', due to it's the front yard setback. Mr. McMahon added it's the setback issue, not coverage.

The Area or Dimensional Variances were read into the record.

Mr. DeMane asked if the 6 x 8 included steps. Mr. McMahon said typically no and read that "Uncovered steps and porches at ground level may project into the yard." So the 6 x 8 would include the steps.

Mr. Nolland stated it's a problem when people build stuff and its wrong, and then come to the board and ask for the variance. To build stuff and put it up is wrong.

Mr. Nolland then opened this appeal up for audience comments. A question was made on how liable is the builder. He then closed the public hearing portion. [Meter 6:40]

SHORT FORM SEQR:

- | | | |
|-------------|-----|--------------------------|
| Page 1 of 4 | 1. | Change yes to no. |
| Page 1 of 4 | 3. | Add .17 acres. |
| Page 2 of 4 | 5. | a. change "yes' to "no." |
| | | b. change "yes" to "no." |
| | 14. | Check "suburban." |

MOTION APPEAL#2018:

By Mr. DeMane, seconded by Ms. Fisher

REGARDING PART II OF THE SHORT FORM SEQR, THE BOARD FINDS THAT NO
IMPACT MAY OCCUR AND THEREFORE THE ANSWERS TO QUESTIONS 1-11 SHOULD
BE CHECKED NO OR SMALL IMPACT

ALL IN FAVOR

MOTION 2018:

By Mr. DeMane, seconded by Ms. Insley

REGARDING PART 3 OF THE SHORT FORM SEQR THAT THE BOARD FINDS BASED
UPON THE SEQR THE APPLICATION AND THE TESTIMONY HEARD AND CHANGES
MADE THAT THE PROPOSED ACTION WILL NOT RESULTS IN ANY SIGNIFICANT
ADVERSE ENVIRONMENTAL IMPACTS AND THUS THE SECOND BOX SHOULD BE
CHECKED

ALL IN FAVOR

MOTION 2018A:

By Ms. Fisher, seconded by Ms. Latinville

THAT THE BOARD ALLOW THE APPLICANT TO CONSTRUCT A 8 X 10' PORCH WITH
STEPS NOT INCLUDED IN THE COVERAGE THAT EXCEEDS OUT INTO THE FRONT
YARD BY 2' AND AS PER DRAWING SHOWN

ALL IN FAVOR: 4

(Mr. Nolland, Ms. Insley, Ms. Latinville, Ms. Fisher)

OPPOSED: 1

(Mr. DeMane)

EXPLANATION OF VOTES:

Ms. Fisher said it looks nice and fits in with the neighborhood.

Ms. Insley agreed with Ms. Fisher and thought this was a minimal variance.

Mr. DeMane said it was a minimal variance but he really has a problem with after the fact.

Ms. Latinville thought it was done unintentionally.

Mr. Nolland voted yes but almost voted no because of after the fact.

The **second** item heard was Appeal #2021, Ohio Avenue for a Special Use Permit for a request to operate mixed use building.

[Meter 16:40]

Terry Smaltz and James Moser was present for this appeal.

Mr. Nolland advised the board cannot do much for the applicant tonight due to the SEQR not being acted on by the Planning Board due to no quorum at their December 2014 meeting.

Mr. Moser asked if there was any reason it couldn't be conditional. Mr. Nolland said they asked that question of the City Attorney and he advised they cannot take an action contingent on an action by another body, especially in regards to the SEQR.

Mr. Nolland asked if the board had any questions or concerns about this appeal. The SUP is a matter of right.

MOTION:

By Ms. Insley, seconded by Ms. Latinville

TO POSTPONE ON THE BOARDS BEHALF

ALL IN FAVOR

The **third** item heard was Appeal #2022, Unitarian Universalist Fellowship, 64 Elm Street for a Class B Variance for a request to install a sign in a residential district.

[Meter 25:00]

JoEllen Miano was present for this appeal.

The application was reviewed.

Mr. Nolland explained she is asking for something that they are not supposed to do. This property is an R-2 district and not allowed to have a sign. It's a house. Ms. Miano said right now there is no minister living there but it is a parsonage. It's supposed to be a house for the minister to live in.

Mr. Nolland explained there are a couple of issues with the sign. One is the size is pretty big for residential neighborhood. He further explained the sign ordinance section to Ms. Miano. Ms. Miano added they want to associate the house with their congregation. Mr. Nolland said another issue with this sign is the "Sunday Services 10 am 4 Palmer Street." Ms. Miano said she knows that goes against code. Mr. Nolland advised it goes to the problem of off-premises businesses.

Mr. Nolland reiterated the problems with this request:

1. Size
2. Message
3. Placement

[Meter 30:00 – 35:24. Discussion about size, message statement, going on the home itself vs free standing, what sign ordinance means, dimensions of sign, home occupation with a sign, wanting a tasteful sign.]

Mr. Nolland asked the applicant if she could make a decision on any of the above items tonight or would she need to go back to her board. She advised she does not have to go back to her board and is the chairman of their group but prefers to go back to the group and speak with them about the above problems. Mr. Nolland suggested postponing this on the board's behalf.

Mr. DeMane asked what is the parsonage used for and why is there a need for a sign on the parsonage. Do members of the congregation go to the parsonage? Ms. Miano said yes they use the space. On Sunday mornings a lot of the children go over there for Sunday school classes. They have meetings and discussion groups that may meet there if there is not enough room on Palmer Street.

Ms. Fisher suggested bigger numbers on the building to identify the building without a sign.

Mr. DeMane thought this was almost an extension of the church.

Ms. Latinville asked if this house was on the tax roll. Ms. Miano said she thought no.

Ms. Insley thought the sign didn't match what's going on there because it refers to a different address. Mr. Nolland preferred to not see a free standing sign. Mr. DeMane reminded the applicant there are no signs allowed. [Further discussion Meter 45:50]

MOTION APPEAL #2022:

By Ms. Fisher, seconded by Mr. DeMane

TO POSTPONE APPEAL #2022 FOR UP TO 2 MONTHS

ALL IN FAVOR

The deadline to submit further information regarding this appeal is February 4th.

The **fourth and fifth** items heard were from Michael Racine, 293 Margaret Street for a Class B Variance (Appeal #2023) for a request to provide less parking than required in a B1 District and Appeal #2024, for a Special Use Permit to request to convert commercial building into one or two bedroom apartment.

[Meter 49:00]

The applicant was advised there was no Short Form SEQR submitted for Appeal #2023.

Mr. Nolland advised the board will use the long form SEQR for both appeals.

One appeal is for a parking variance and the other is to convert the building into an apartment.

Mr. Racine advised in the downstairs there were 2 bedrooms and upstairs has 1 bedroom. The building is not currently occupied and will be family housing.

The present use requires 6 spaces, one for each apartment and 4 for the commercial space. The problem the applicant has is that when you go to 3 apartments, it's a different section of the code and the requirement is 2 parking spaces per unit for 3 or more units, which he will need 6 spaces. According to the drawing, the applicant only has 3 spaces available.

Mr. Nolland advised this property has a grandfathered in deficiency of 2 spaces. It's always had these 3 and always needed 6 whether it's a commercial use or not.

Mr. Racine advised this will be a 1 bedroom apartment.

The reason there is a parking issue is the code says you have to have 2 spaces per unit, no matter how many adults live there. The applicant is changing use and the grandfathering in goes away.

[Meter 55:48 Explanation on why no Short Form SEQR submitted.]

PUBLIC COMMENTS:

Todd Decroiti, 112 Saily Avenue, advised his concern is the building itself is 10' away from restaurants and laundromats. It's a bad setup. He asked what type of person would rent this apartment. It's not a good spot for apartments. It's obviously got a parking problem already and nowhere to park. It's like a pass-through.

CLOSED PUBLIC HEARING. [Meter 57:34]

Ms. Fisher asked about putting a chain in so people cannot drive thru this lot. Mr. Racine advised no one can drive through there except for himself because he owns the laundromat and he has a deeded right-of-way from the Laundromat to pass thru that property. That property does not have a deeded row attached back through. He

advised he owns all 3 of those properties and the biggest reason and for 28 years he has been trying to buy this property due to 4' of that building encroaches on the Pizza property. Every time this is a commercial use building, no matter what is in there, people just freely park in that parking lot like that own it. He has asked people to move but has gotten resistance. It's a really poor design. [Further explanation about the property, Meter 59:01]. He feels this use will be less intrusive.

Mr. Racine reiterated egress and ingress to that property is between the 2 existing buildings that he now owns.

[Further discussion about different uses for the buildings, snow removal, parking, barriers.]

[Meter 1:00:42 – Correspondence read into the record from Daniel & Byron Mattott dated January 16, 2015]. Mr. Racine advised they were competitive with him in trying to buy this property.

LONG FORM SEQR:

Page 2	C2a	Change "No" to "Yes."
Page 3	D.1.c.	Change "No" to "Yes." Add: <u>60%, 900 SF.</u> Units: <u>1</u>
Page 4	f.	Delete one X.
Page 5	c.	Change "No" to "Yes."
	c. i.	Change 6000 gallons to 4,000 gallons.
Page 13	h.	Change "No." to "Yes."
	i.	Add: Lake Champlain.

MOTION:

By Mr. DeMane, seconded by Ms. Fisher

**TO USE THE REVIEW AND RESULTS OF THE LONG FORM SEQR THAT IS WITH
APPEAL #2024 TO MEET THE REQUIREMENT OF THE SEQR SHORT FORM NEEDED
FOR APPEAL 2023.**

ALL IN FAVOR: 5

MOTION:

By Ms. Fisher, seconded by Mr. DeMane

**THAT THE BOARD FINDS THE LONG FORM SEQR FOR APPEAL #2023 AND FIND NO
ADVERSE ENVIRONMENTAL IMPACT**

ALL IN FAVOR: 5

MOTION:

By Ms. Insley, seconded by Ms. Latinville

**THAT THE APPLICANT BE GRANTED A VARIANCE TO ALLOW 3 PARKING SPOTS
INSTEAD OF THE REQUIRED 6 FOR APPEAL #2023**

ALL IN FAVOR: 5

OPPOSED: 0

AMENDED MOTION:

By Ms. Insley, seconded by Ms. Latinville

BASED ON A 1 BEDROOM APARTMENT

MOTION PASSED

MOTION SEQR SUP:

By Mr. DeMane, seconded by Ms. Insley

**IN REGARDS TO APPEAL #2024 PART II OF THE SHORT FORM SEQR THE BOARD
FINDS THAT NO IMPACT MAY OCCUR AND THEREFORE THE ANSWERS TO
QUESTIONS 1-11 SHOULD BE CHECK NO OR SMALL IMPACT AS AMENDED ABOVE**

Mr. Nolland clarified this motion saying he's using this SEQR for those questions.

ALL IN FAVOR 5

MOTION:

By Ms. Fisher, seconded by Ms. Insley

**THAT THE BOARD USE THE LONG FORM SEQR FOR APPEAL #2023 ANSWERED FOR
APPEAL #2024 AND FIND NO ADVERSE ENVIRONMENTAL IMPACT**

ALL IN FAVOR: 5

MOTION SUP:

By Ms. Fisher, seconded by Ms. Insley

*FOR APPEAL #2024 THAT THE COMMERCIAL BUILDING ON PROPERTY LOCATED AT
293 MARGARET STREET BE CONVERTED TO A ONE BEDROOM APARTMENT AND
GRANT THE SPECIAL USE PERMIT*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

Mr. Racine commented he is trying to lessen the impact to the community.

Ms. Dena Archer address the board for her pending variance to be heard at the February meeting.

MOTION:

By Mr. DeMane, seconded by Ms. Insley

TO APPROVE THE DECEMBER 15, 2014 ZONING BOARD MINUTES.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

Motion to Adjourn:

By Ms. Latinville, seconded by Ms. Insley

Adjourned at 8:34 PM

For the purpose of this meeting, this meeting was recorded on the VIQ System in the Common Council Chambers. This is a true and accurate copy and transcription of the discussion.

Denise Nephew
Secretary
Zoning Board of Appeals